



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO.8303 OF 2023

Ajay s/o Garudayal Batra and another.

..PETITIONERS

VERSUS

The State of Maharashtra, Department of
Urban Development and Town Planning,
Mumbai, through its Secretary and others

..RESPONDENTS.

.....

Shri C.V.Kale, Advocate for petitioners.

Shri A.M.Deshpande, I/c. Government Pleader for respondent nos. 1 to 3.

.....

CORAM :- NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE :- 18th DECEMBER, 2023

P C.

Heard.

2. The petitioners have made the following prayers:

“(ii) declare that the award dated 16.10.2023 passed in Land Acquisition Case No. 1/A-65/2003-2004, Mauza-Chikhli (Dev), Tah. Nagpur (City), District Nagpur to the extent of petitioners aforesaid land Admn.7422.505 sq.mtrs. is bad in law and suffers from legal infirmity.

(iii) quash and set-aside the award dated 16.10.2023 passed by the respondent no.3 LAO, in Land Acquisition Case No.1/A-65/2003-2004, at Annexure-A, Mouza-Chikhli (Dev), Tah. Nagpur (City), District Nagpur to the extent of petitioners aforesaid land Admn. 7422.505 sq.mtrs.and the notices daed 16.10.2023 under Section 12(2) of the LA Act, 1894 issued by the LAO at Annexure A-1 to A-4.

(iv) in the alternate, direct the LAO to determine the compensation of petitioners land considering the market value as on 24.07.2023, the date when the Supreme Court has recognised the petitioners rights in the land Admn.7422.505 sq.mtrs. while deciding petition for S.L. to Appeal (C) No.14838/2023 and pay to the petitioners within specific time.”

3. Perusal of the aforesaid prayer clauses depict that the petitioners have questioned the Award dated October 16, 2023 to the extent of land purchased by the petitioners admeasuring 7422.505 square meters.

4. The contention of Shri Kale, learned counsel appearing for the petitioners is that in the earlier round of litigation before the Apex Court particularly in Special Leave Petition (Civil) No.988/989 of 2022 the petitioners were not made party-respondents and as such the orders therein would not bind on the petitioners. Mr. Kale would invite our attention to the facts that the property referred to above was used by the petitioners for the purpose of running petrol pump. In such an eventuality, it was expected of the Land Acquisition Officer to protect the interest of the petitioners while determining the compensation by taking into consideration the expenses incurred by the petitioners for the installment of Petrol Pump unit.

5. Shri Deshpande, learned In-charge Government Pleader opposed the prayers made in the writ petition. He would invite our attention to the order passed by the Apex Court in Petition for Special Leave to Appeal (C) No.14838 of 2023 decided on July 24, 2023. According to him, the petitioners have already entered into settlement agreement as can be inferred by the orders of the Apex Court. As such, it is not open for the petitioners to seek re-opening of the entire issue and that being so, the petition is liable to be dismissed.

6. We have appreciated the aforesaid submissions.

7. The petitioners approached this Court by filing Writ Petition No.4060 of 2023 which was decided on July 4, 2023. In the said writ petition, the petitioners have raised grievance with regard to the proceedings initiated by the respondent-Acquiring Body under the provisions of Maharashtra Regional and Town Planning Act, 1966 and Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The petitioners have tried to impress the Court on the basis of sale deed dated February 04, 2019 to the extent of aforesaid land. This Court

vide order dated July 04, 2023 observed that the parties are governed by the Settlement Agreement dated March 16, 2023. Accordingly, the petition was not entertained and it is disposed of as such. Subsequent thereto, the petitioners have approached the Apex Court vide Petition to Special Leave to Appeal (C) No.14838 of 2023. After hearing the parties, the Apex Court has passed the order on July 24, 2023, the relevant portion of which reads thus:

“Out of the said property, the petitioners herein presently claim that they have purchased an extent of 7422.50559 mtrs. and entitled to compensation. Insofar as the said extent, the learned senior counsel for the private respondents 5 & 6 would submit that if the documents relating to the same is produced before the Competent Authority and to that extent if the right claim by the petitioners in the said property is established, the said respondents 5 & 6 have no objection for apportionment of the compensation to be determined by the authorities and commensurate portion being disbursed to the petitioners herein.

In that view, it is made clear that notwithstanding the settlement which was approved by this Court, insofar as the apportionment of the compensation, the Competent Authority shall take note of the right as claimed by the parties to the portions of the property claimed by them and appropriate apportionment be made and be disbursed accordingly. Insofar as the quantum of the compensation to be determined, the issue is left open for the parties to avail their remedies in accordance with law to seek determination of the appropriate quantum in appropriate proceedings.”

8. We have perused the observations carefully.
9. The Land Acquisition Officer passed an award in relation to land bearing Survey No.94 situated at Chikhli (Deo), Nagpur (City), District Nagpur, Bhumapan No.129, admeasuring 5.20 hectares. Pursuant to the said award compensation of Rs.57,48,28,742/- came to be awarded on October 16, 2023.
10. While passing the aforesaid award the Land Acquisition Officer with regard to expansion of Agricultural Produce Market Committee (public purpose) had considered various litigations taken out by the land owners,

etc. before the High Court and Apex Court, the objections raised by the petitioners through their lawyer on June 27, 2023, Writ Petition No.4060 of 2023 filed by the petitioners decided on July 04, 2023, the settlement arrived at between the parties on March 16, 2023 and the order to that effect passed in Special Leave Petition (Civil) No.988/989 of 2022 and Special Leave to Appeal (C)No.14838 of 2023 preferred by the petitioners.

11. As a sequel of the order dated July 24, 2023 passed in Special Leave to Appeal (C) No.14838 of 2023 the order of apportionment came to be passed having regard to the acquisition of land out of Sheet No.53 and 60 bearing City Survey Nos. 129/2, 129/2/2 and 129/2/1, admeasuring 2410.77 square meters, 1000 square meters, 2014.32 square meters and 1997.41 square meters.

12. As far as both these petitioners are concerned, they have sought declaration that the aforesaid award to the extent of the petitioners land admeasuring 7422.505 square meters is bad in law. As a sequel of above, the petitioners were issued notice to collect the compensation of Rs.2,62,89,655/- to the extent of claim of the petitioner no.1 and Rs.5,60,00,146/- to the petitioner no.2.

13. The aforesaid order of apportionment appears to be in the light of the order of the Apex Court in Special Leave to Appeal (C)No.14838 of 2023 preferred by the petitioners. While doing so, the Land Acquisition Officer had regard to the right as claimed by the petitioners to the extent of the apportionment of property claimed by them.

14. As far as dispute in regard to the quantum, if any, the petitioners have every right to avail remedies in accordance with law and not under the extra ordinary jurisdiction.

15. The Apex Court was sensitive to the fact of the petitioners purchasing the land under the above referred sale deed and their right to claim the compensation and has granted relief in favour of the petitioners.

16. Apart from above, after the aforesaid order dated July 24, 2023, there are no fresh developments which warrant or give a fresh cause to the petitioners to question us the award delivered by the Land Acquisition Officer in extra ordinary jurisdiction of this Court.

17. In view of above, we are of the view that the Apex Court has already determined the issue which the petitioners are trying to re-open and that being so, we refrain ourselves from causing interference at the behest of the petitioners.

The writ petition stands dismissed. No costs.

Pending civil application shall also stand disposed of accordingly.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

Andurkar.